IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO.1924 OF 2004

Dilip Ambalal Ahir & Anr. ... Petitioners

V/s.

The Union of India & Ors. ... Respondents

Mr.R.V. Pai with Mrs.B.R. Pai for Petitioners
Mr.P.T. Khemani for Respondent Nos.3 and 4
Mr.G.S. Hegde for Respondent No.6

CORAM: **H.L. GOKHALE &**
SMT.NISHITA MHATRE, JJ.

DATED: **SEPTEMBER 20, 2004**

P.C.:

. Heard Mr.Pai for the Petitioners. Mr.Hegde appears for Respondent No.6, who is the contesting respondent, and Mr.Khemani for Respondent Nos.3 and 4. The case of the Petitioners is that they have acquired certain land lying in the Pune Cantonment area from Respondent No.8 under a Deed of Exchange. It is Respondent No.6, who is in possession of the land and it is the case of Respondent No.6 that he has purchased this land from Respondent No.8. The Petitioners are keen that the record of the Defence Estates ought to be corrected and the name of the Petitioners be recorded therein. They had filed one writ petition earlier being Writ Petition No.6214 of 2001 and the earlier Division Bench, which heard the matter, directed the concerned

authorities of the Union of India to dispose of the applications made by the Petitioners in accordance with law.

2. It appears that the Directorate of Defence Estates gave notice to the Petitioners and to the concerned persons wherein it was noted that there was a dispute with respect to the claim on this property and, therefore, in the communication dated 9.4.2002, the Petitioners were informed particularly in paragraph 4.4 thereon that the request of the Petitioners is referred to a Court of Law and that unless the Court settles the dispute, the Defence Estates cannot change the name of the recorded owner. This decision has been challenged in the present petition.

3. We have heard the learned Counsel for the parties concerned. In our view, the decision of the Defence Estates is proper in the facts of the case. Inasmuch as the Petitioners on one hand as well as Respondent Nos.6 and 7 on the other hand both claim from Respondent No.8 who is the registered owner of the property, it would be proper that the dispute is resolved by a competent Court of Law. This is also because there is a dispute about the authenticity of the document which Respondent No.8 had entered with Respondent Nos.6 and 7. In our view, whatever the

decision is arrived at by the competent Court of law after hearing all concerned, subject to the right of appeal, will bind the Union of India and its authorities and thereafter they will correct their record depending on the decision.

4. Writ Petition stands disposed of accordingly.

(H.L. Gokhale, J.)

(Nishita Mhatre, J.)